

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

O.A.No.305/99Date of Order : 15.3.2000

BETWEEN :

Md.Afzal Hussain ..Applicant.

AND

1. The Director, Public Grievances Cell, Prime Minister Office, New Delhi.
2. The Secretary for Ministry of Communications, Sanchar Bhavan, New Delhi.
3. The Chief General Manager, Communications, A.P., Hyderabad.
4. Enquiry Officer, through Chief General Manager, Telecommunications, A.P., Hyderabad.
5. Director of Telecommunications, Office of the Generl Manager, Telecommunications, Andhra CIRCLE, Hyderabad.
6. Divisional Engineer, Telegraphs, Secunderabad. ..Respondents.

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Counsel for the Applicant ..Mr.M.V.Raja Ram

Counsel for the Respondents ..Mr.V.Rajeswara Rao

CORAM :

HON'BLE SHRI R.RANGARAJAN : MEMBER(ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER(JUDL.)

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(As per Hon'ble Shri R.Rangarajan, Member(Admn.)) (

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None for the applicant. Mr.V.Rajeswara Rao, learned standing counsel for the respondents. The OA is disposed of under Rule 15(1) of CAT (Procedure) Rules, 1987.

2. The applicant was charge sheeted under Rule 14 of CCS(CCA) Rules 1965 on the charge that the applicant furnished false and incorrect information basing on which he got himself selected as Time Scale Clerk. The disciplinary proceedings against the applicant was initiated on 27.8.75. Though the applicant submit, that opportunities were not given to him and an **ex parte** decision was taken. It is seen from the reply that the applicant attended the sittings along with his Defence Assistant held on 28.11.75, 5.12.75, 10.12.75, 20.12.75, 23.12.75, 24.12.75 and 6.1.76. But he did not attend the sitting held on 28.1.76 as it is stated that he had absented without intimation. The enquiry proceedings were concluded and he was given the copy of the enquiry report as can be seen from the letter dated 6.3.76 (A-5). The disciplinary authority passed the impugned order No./Con/MAH/75-76, dated 23.3.76 (A-4) ~~dismissing~~ dismissed the applicant from service. He filed an appeal against that order which was disposed of by the imugned order of the appellate authority No.Staff/56/2/6/76, dated 9.9.76 (A-3) confirming the penalty. The applicant later on represented his case

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through the Postal Board and the Minister, but all those were rejected.

3. This OA is filed to set aside the appellate authority order dated 9.9.76 and the disciplinary authority order dated 23.7.76 and for a consequential direction to the respondents to consider the case of the applicant for reinstatement as Time Scale Clerk with all consequential and monetary benefits.

4. At the outset it has to be stated that this OA was filed on 8.2.99, i.e. about 23 years after the passing of the order by the appellate authority. Hence the filing of the application itself is belated.

It is not understood whether any condonation petition was filed by him, but from the docket order it is seen that no such condonation petition is filed.

5. The main contention of the applicant in this OA is that during the preliminary enquiry the statement of the witness was not recorded in his presence. Opportunity was not given him to see the statements and documents. No proper evidence has been produced to prove the charge. The enquiry officer did not act objectively. He was not asked to submit the defence statement. The enquiry disciplinary authorities acted ^{and} due to ~~bias~~ ^{bias}. The departmental enquiry was closed ex-parte.

6. A reading of the documents filed by the applicant itself shows that the copy of the enquiry

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report was send to him. If the applicant has not acted suitably to file his defence statement it is not for the department to cancel the charge sheet. The applicant did not take adequate action to protect his case.

7. The second contention of the applicant is that it was conducted ex-parte. We do not think so. The applicant and his defence assistant attended on 7 occasions. On one occasion i.e. on 28.1.76 he did not attend without intimation. The letter of the enquiry officer dated 28.1.76 was sent to him by registered post to submit his representation which was returned undelivered. Hence the applicant cannot question the procedural action taken by the respondents to set aside the orders.

8. We have perused the order of the disciplinary authority dated 23.3.76. A perusal of the order clearly indicates that all the points mentioned in this OA had been considered by the disciplinary authority and a final order has been taken. Further the order of the appellate authority dated 9.9.76 is much more elaborate than the order of the disciplianry authority. The appellate authority order is very well reasoned and has ^{considered} ~~written~~ taken all the contentions. No technical flaw has been ^{noted} ~~taken~~ in the conduct of the enquiry.

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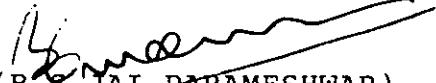
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9. The applicant submitted representations to the higher authorities. In the disciplinary proceedings the rule as provided for in the CCS (CCA) Rules should be followed and none else should be interfere with the authority's order. Hence the submission that the ~~was not replied~~ representation to the P&T Board and the Minister is no consequence.

10. In view of what is stated above, we find that the enquiry has been conducted in accordance with the rules and the official who passed the order of the dismissal had done it ~~without~~ applying their mind fully. In view of what is stated above, we find no need to allow this OA and hence the OA is dismissed. No costs.

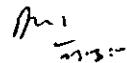

(B.S.JAI PARAMESHWAR)


(R.RANGARAJAN)

Member(Admn.)

Dated : 15th March, 2000

9dictated in Open Court)



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